

**Connecticut Employer Lawyers Association
Connecticut Advocates for Employee Rights**

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Good morning afternoon Senators Coleman and Kissel, Representatives Fox and Rebimas and members of the committee.

My name is Deborah McKenna. I am an attorney at Emmett & Glander in Stamford CT and I practice in the area of plaintiff's side employment law. I am testifying today on behalf of the Connecticut Employment Lawyer's Association (known as CELA) in support of **Raised Bill No. 6658 "An Act Concerning Employer Use of Noncompete Agreements."**

CELA is a voluntary membership organization whose members are attorneys from throughout Connecticut who devote at least 51% or more of their employment related practice to representing employees. As such, CELA attorneys represent individual employees in all types of employment related matters including, but not limited to, discrimination, wrongful termination, and claims involving state and federal FMLA and related leave of absence issues. In addition, a substantial part of our members' practice involved reviewing and negotiating various employment contracts, including severance and non-competition agreements.

CELA supports this bill for the following reasons. First, non-competition agreements are standard in many sectors of the workforce here in Connecticut. However, not all employers adhere to Connecticut law when drafting such agreements, particularly with regard to the reasonableness of the duration and geographical limitations. Additionally, some employers try to

to impose such agreements in industries or on employees where non-competition agreements are simply not appropriate. This bill codifies the factors that Connecticut courts presently apply in determining an agreement's reasonableness.

Second, presently there is little recourse for an employee who has entered into such an agreement without first having the benefit of fully understanding the limitations on his or her future ability to earn a livelihood. This bill would require that, when an employer presents an employee with a non-competition agreement, the employee must be given at least 10 days to seek legal advice in order to be able to fully understand the limitations and obligations contained in the agreement. This is particularly important because at present, an employer is not required to give an employee any time to review this agreement with an attorney. Because a non-competition agreement by its very definition, limits an employee's opportunities for future employment for some defined period of time, it is extremely important that the employee fully understand his or her obligations under such an agreement as well as the potential long-term impact on his or her career opportunities.

Finally, this bill provides that an employee who is harmed by a violation of this law can bring a legal action in Superior Court for damages and expressly provides for the recovery of damages, costs and attorney's fees. At present, there is no provision for an employee to collect damages, costs or attorneys' fees as a result of harm suffered by an unreasonable or overly broad non-competition agreement. As a result, employees who leave employment, even those who are terminated, but subject to the terms of a non-competition agreement, often find themselves facing potential legal action when trying to find another position. Some employers aggressively pursue any and all suspect non-compete violations and do so through the use of an expedited

prejudgment remedy proceeding in state court. Because there is not current mechanism in place to allow for an employee who is harmed by the non-competition agreement to collect anything other than contract damages, it can be extremely cost-prohibitive for an employee to defend him or herself.

We recognize that in certain circumstances an employer will need to safeguard its trade secrets or proprietary information. However, that need must be balanced against the ability of a worker, particularly one whose employment has been terminated, to find suitable subsequent employment. In this economy, it is particularly important that a worker be able to pursue all available options for employment and not be hampered by an unreasonable non-competition agreement or by the fact that it would be simply too costly to fight it.

Therefore, we support the passage of Raised Bill 6658 because we believe it will provide a substantial benefits for workers while still ensuring that employers have reasonable means to protect for their confidential trade secret and proprietary information.